

APPEAL NO. 020132
FILED MARCH 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 18, 2001. The hearing officer resolved the sole issue before him by determining that during the qualifying period for the third quarter of supplemental income benefits (SIBs), the respondent (claimant) had satisfactorily participated in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) and that she is entitled to SIBs for the third quarter. The appellant (carrier) appealed on sufficiency grounds, and there was no response by the claimant.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in determining that the claimant is entitled to SIBs for the third quarter. Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). In reaching his decision, the hearing officer determined that the claimant's underemployment was a direct result of her compensable injury and that the claimant satisfactorily participated in a full-time vocational rehabilitation program sponsored by the TRC. Whether a claimant has made a good faith effort (pursuant to Rule 130.102(d)) to obtain employment is a question of fact for the hearing officer to resolve. This is also true regarding whether the claimant has satisfactorily participated in a TRC program. Upon review of the record, we conclude that the hearing officer's determination that the claimant is entitled to SIBs for the third quarter is supported by the evidence, and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge